



2856

2-Petition

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Christopher Kelly et al.

Serial No. 09/680,854 Art Unit No. 2856

Filed: 10/06/2000 Examiner: J. Ludlow

For: PIPETTE WITH IMPROVED PIPETTE TIP MOUNTING SHAFT

RECEIVED  
APR 10 2003  
TECHNOLOGY CENTER 2800

CERTIFICATE OF MAILING (37 CFR 1.8a) and  
CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

RECEIVED  
APR 15 2003  
TC 1700

I hereby certify that this paper in the above-identified application along with any paper referred to as being attached or enclosed is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Director of Technical Center 1700, United States Patent and Trademark Office, Washington, D.C. 20231 and on the date shown below is being facsimile transmitted to the Examiner at (703) 872-9626.

Robert R. Meads  
Reg. No. 22,796

April 3, 2003

Robert R. Meads

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO  
RECEIVE OFFICE ACTION (MPEP 711.03 (c), SECTION II)

Attention: Director of Technical Center 1700  
United States Patent and Trademark Office  
Washington, D.C. 20231

Sir:

Applicants hereby petition for withdrawal of a holding by  
the Examiner to abandon the above-identified patent application,

based upon a failure of the Applicants to receive the Office Action mailed June 19, 2002.

On January 27, 2003, Applicants' attorney received a telephone call from the Examiner asking if Applicants wished their above-identified patent application to go abandoned for failure to respond to an Office Action mailed June 19, 2002.

Upon the Applicants attorney checking his files and the files and patent docket records of the Applicants, no record of receipt of the Office Action was found. Accordingly, the Examiner was advised that the Office Action had not been received and that the Applicants did not want their application to go abandoned. Applicants were then verbally advised by the Examiner that a holding of abandonment was required because of Applicants failure to respond the June 19, 2002 Office Action, referring Applicants to MPEP 711.03(c) SECTION II, entitled "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION".

No formal notice of a holding of abandonment of the subject patent application has yet been received by Applicants or their attorney. Accordingly, pursuant to MPEP 711.03 (c) Section II and in support of their Petition, Applicants submit herewith a copy of (1) their Patent Action Calendar for the period June 3, 2002 through February 14, 2003, in which the Office Action of June 19, 2002 if received would have been listed, and (2) their Docket History Log for Docket 98R-2-2 (the Docket number for the subject patent application). Neither

document contains any record of the June 19, 2002 Office Action which if received would have been recorded in each of documents (1) and (2).

Accordingly, Applicants submit that the holding of abandonment should be withdrawn based upon Applicants failure to receive the Office Action mailed June 19, 2002, and that the Examiner should be directed to issue a substitute copy of the Office Action to the Applicants at their current address as indicated below:

7500 Edgewater Drive

Oakland, California 94621

Attention: Robert R. Meads

Respectively submitted,

A handwritten signature in cursive script, reading "Robert R. Meads". The signature is written in dark ink and is positioned above the typed name and contact information.

ROBERT R. MEADS

Registration No. 22,796

(510) 564-1707

(310) 373-7621

Attorney for Applicants

**June 03, 2002**

Monday

All Day

00R-1-1-PCT

Start work on National Phase applications for 00R-1-1-PCT. Deadline for entry is August 17, 2002.

**June 05, 2002**

Wednesday

All Day

99R-2-PRC

Deadline for submitting voluntary amendments to PRC application during Substantive Examination.

All Day

99R-5-PRC

Deadline for submitting voluntary amendments to PRC application during Substantive Examination.

**June 10, 2002**

Monday

All Day

RRM here

RECEIVED

APR 15 2003

TC 1700

**June 11, 2002**

Tuesday

All Day

RRM here

**June 13, 2002**

Thursday

All Day

teleconference

Bob Meads in Palos Verdes, James Morgan in Munchen, Chris Ryan in London.  
Early morning.

**June 14, 2002**

Friday

All Day

96R-2 maint. fee

U.S. maintenance fee due 5,849,248

Docket 96R-2

3.5 yrs.

paid 6/14/02

**June 17, 2002**

Monday

All Day

RRM here

**June 18, 2002**

Tuesday

All Day

RRM here

RECEIVED  
APR 10 2003  
TECHNOLOGY CENTER 2800  
2/11/2003

**June 20, 2002**

Thursday

All Day

RRM here

**June 24, 2002**

Monday

All Day

RRM here

**June 25, 2002**

Tuesday

All Day

RRM here

**June 27, 2002**

Thursday

All Day

RRM teleconference

Teleconference in Palos Verdes with French and German patent counsel re Rainin v. Greiner

**June 28, 2002**

Friday

All Day

01R-1

deadline for filing PCT and Taiwan applications in Docket 01R-1 (LTS)

**July 01, 2002**

Monday

All Day

RRM HERE

**July 02, 2002**

Tuesday

All Day

99R-2-PCT-PRC

Deadline for Voluntary Amendment during Substantive Examination.  
Instructions for filing voluntary amendment sent 5/22/02.

All Day

99R-5-PCT-PRC

Deadline for filing voluntary amendment in the PRC.  
Instructions for filing voluntary amendment sent on May 21, 2002.

All Day

RRM here

**July 04, 2002**

Thursday

All Day

HOLIDAY

**July 08, 2002**

Monday

All Day

RRM here

**July 09, 2002**

Tuesday

All Day

RRM here

**July 11, 2002**

Thursday

All Day

RRM here

**July 15, 2002**

Monday

All Day

RRM here

**July 16, 2002**

Tuesday

All Day

RRM here

**July 19, 2002**

Friday

All Day

**01R-1**

Deadline for response to Office Action mailed June 20.  
Filed 7/15/02.

**August 01, 2002**

Thursday

All Day

**99r-2-PCT-EP**

James Morgan to review revised claims for possible voluntary amendment.

James says we can't file amendments until after examination report is received. At that time he'll review proposed amendments in light of the examination report.

All Day

**99R-5-PCT-EP**

James Morgan to review revised claims for possible voluntary amendment.

**August 02, 2002**

Friday

All Day

**99R-8-Taiwan**

Deadline for requesting re-examination after Examiner's rejection.  
Instructed Tai E to request re-examination 7/25/02.

All Day

**A-68282-PCT**

Deadline for national filings of PCT application.  
Instructions and supporting documents sent to national associates on 7/11/02.

**August 05, 2002**

Monday

All Day

RRM vacati n



**August 06, 2002**

Tuesday

All Day

RRM here

**August 08, 2002**

Thursday

All Day

RRM here

**August 09, 2002**

Friday

All Day

**99R-2-Taiwan annuity**

2nd annuity for this Taiwan patent is due 8/10/02.

Instructions for payment sent 5/21/02.

**August 12, 2002**

Monday

All Day

RRM here

**August 13, 2002**

Tuesday

All Day

RRM here

**August 15, 2002**

Thursday

All Day

RRM here

**August 16, 2002**

Friday

All Day

**00R-1-1-PCT**

Deadline for national filings of PCT application.

Sent to associates 7/25/02.

**August 19, 2002**

Monday

All Day

RRM vacation day

**August 20, 2002**

Tuesday

All Day

**99r-3-Taiwan**

Send letter to Tai E instructing them to pay the 2nd annuity, due Oct. 20, 2002 for Taiwan patent 144137.

Instructions sent 8/2/02.

**August 20, 2002** Continued

Tuesday

All Day

RRM here

**August 22, 2002**

Thursday

All Day

RRM here

**August 26, 2002**

Monday

All Day

RRM here

**August 27, 2002**

Tuesday

All Day

RRM here

**August 28, 2002**

Wednesday

All Day

93R-2 maint. fee  
U.S. maintenance fee due 5,392,914  
Docket 93R-2  
7.5 yrs.  
Check requested 8/15/02.  
Payment mailed by Express Mail on 8/28/02.

All Day

98R-3-PCT-PRC  
Deadline for Voluntary Amendments to the PRC application during Substantive Examination.  
  
Fax to Tai E advises that we do not wish to make any amendments to this application during the examination procedure.

**August 30, 2002**

Friday

All Day

RRM here

**September 02, 2002**

Monday

All Day

Labor Day  
holiday

**September 04, 2002**

Wednesday

All Day

RRM here



**September 05, 2002**

Thursday

All Day

RRM here

**September 09, 2002**

Monday

All Day

**99r-7-PCT**

Deadline for national filings of PCT application.

Sent to associates 8/13/02

All Day

**99R-8-PCT**

Deadline for national filings of PCT application.

Sent to associates 8/13/02.

**September 11, 2002**

Wednesday

All Day

RRM here

**September 12, 2002**

Thursday

All Day

RRM here

**September 23, 2002**

Monday

All Day

**01R-4**

Issue Fee is due 10/15/02 but fee goes up 10/1/02. Pay issue fee this week.

**September 25, 2002**

Wednesday

All Day

Janet Vacation

**September 26, 2002**

Thursday

All Day

Janet Vacation

**September 27, 2002**

Friday

All Day

Janet Vacation

**September 30, 2002**

Monday

All Day

Janet Vacation

**October 01, 2002**

Tuesday

All Day

Janet Vacation

**October 02, 2002**

Wednesday

All Day

Janet Vacation

**October 03, 2002**

Thursday

All Day

01R-1-PCT

Check with Latrice Russell at PCT (703-306-5829) re authorized signature.

**October 14, 2002**

Monday

All Day

RRM here

**October 15, 2002**

Tuesday

All Day

Greiner Patent

Follow up : European patent recently issued for Greiner tip rack -- do we want to file opposition?

**October 18, 2002**

Friday

All Day

99R-3-Taiwan annuity

2nd year annuity is due for Taiwan patent 144137.  
Instructions to pay annuity sent 8/2/02.

All Day

RRM here

**October 21, 2002**

Monday

All Day

RRM here

**October 22, 2002**

Tuesday

All Day

RRM here

**October 24, 2002**

Thursday

All Day

RRM here

**October 29, 2002**

Tuesday

All Day

RRM here

**October 30, 2002**

Wednesday

All Day

**01R-2 PCT & Taiwan filing deadline**  
deadline for filing PCT application in Docket 01R-2 (LTS)  
Rainin has decided not to file this application in PCT or Taiwan.

All Day

**Greiner EPO patent**  
After this date, we should be able to obtain an English translation of the Greiner patent through the British patent office.

All Day

RRM here

**November 01, 2002**

Friday

All Day

RRM here

**November 04, 2002**

Monday

All Day

RRM here

**November 06, 2002**

Wednesday

All Day

RRM here

**November 08, 2002**

Friday

All Day

RRM here

**November 11, 2002**

Monday

All Day

RRM  
Due Diligence study in Palos Verdes

**November 12, 2002**

Tuesday

All Day

RRM  
Due Diligence study in Palos Verdes

**November 14, 2002**

Thursday

All Day

RRM here

**November 15, 2002**

Friday

All Day

RRM here

**N vember 18, 2002**

Monday

All Day

RRM

Rainin v. Greiner conference call w/Ed Weinsoff and James Morgan from Palos Verdes

**N vember 19, 2002**

Tuesday

All Day

RRM here

**N vember 20, 2002**

Wednesday

All Day

RRM here

**N vember 21, 2002**

Thursday

All Day

RRM here

**N vember 25, 2002**

Monday

All Day

RRM here

**November 26, 2002**

Tuesday

All Day

RRM here

**November 28, 2002**

Thursday

All Day

HOLIDAY

Happy Thanksgiving!

**November 29, 2002**

Friday

All Day

HOLIDAY

**December 02, 2002**

Monday

All Day

RRM here



**December 03, 2002**

Tuesday

All Day

RRM here

**December 05, 2002**

Thursday

All Day

RRM here

**December 10, 2002**

Tuesday

All Day

RRM here

**December 11, 2002**

Wednesday

All Day

94R-1-PCT-EP

Granting fees must be paid by this date

**December 12, 2002**

Thursday

All Day

RRM here

**December 13, 2002**

Friday

All Day

RRM here

**December 16, 2002**

Monday

All Day

RRM here

**January 02, 2003**

Thursday

All Day

01R-1-PCT

Ask RRM if we are going to file a Demand in this application. If we are, begin preparing the Demand forms. Deadline for filing is 1/29/03.

All Day

96R-5-PCT-EP

Deadline for response to Official Letter from EPO.

**January 10, 2003**

Friday

All Day

01R-1

Deadline (1/11/03) for responding to Office Action mailed on Oct. 11, 2002.  
Response filed 12/17/.

**January 15, 2003**

Wednesday

All Day

97R-1-PCT-JPN

Response to Office Action due.

Instructions sent to Asamura on Jan. 9, 2003

**January 27, 2003**

Monday

All Day

RRM here

**January 28, 2003**

Tuesday

All Day

RRM here

**January 29, 2003**

Wednesday

All Day

01R-1-PCT Demand

Deadline for filing Demand in PCT application.

Filed 1/17/03.

**January 30, 2003**

Thursday

All Day

RRM here

**January 31, 2003**

Friday

All Day

A-68282-PCT-EP

3rd year renewal fee due

**February 03, 2003**

Monday

All Day

RRM here

**February 04, 2003**

Tuesday

All Day

RRM here

**February 06, 2003**

Thursday

All Day

RRM here

**February 10, 2003**

Monday

All Day

RRM here



**February 11, 2003**

Tuesday

All Day

RRM here

**February 12, 2003**

Wednesday

All Day

RRM here  
RRM here

**February 14, 2003**

Friday

All Day

**93R-1 M. Fee**

7.5 yr Maintenance fee due Feb. 15, 2003, for 5,441,702 Docket 93R-1  
paid 2/10/03

---

**98R-2-2**                      **date** 10/4/2000                      **status**

**title** Pipette With Improved Pipette Tip And Mounting Shaft

**action** New application filed by Express Mail -- a Divisional application based on US application no. 09/188,031, our docket 98R-2.

---

**98R-2-2**                      **date** 1/8/2001                      **status** pending

**title** Pipette With Improved Pipette Tip And Mounting Shaft

**action** Received filing receipt mailed on 12/11/00. Filing fee was underpaid by \$10. We must file "Missing Parts" with the \$10 plus \$65 surcharge. Return receipt postcard and the filing receipt indicate application serial no. 09/680,854 and a filing date of 10/06/2000 (even though the certificate of mailing and Express Mail receipt indicate a filing date of 10/04/2000).]

---

**98R-2-2**                      **date** 1/9/2001                      **status** pending

**title** Pipette With Improved Pipette Tip And Mounting Shaft

**action** Filed Missing Parts Transmittal with check for 75.00.

---

**98R-2-2**                      **date** 1/15/2001                      **status** pending

**title** Pipette With Improved Pipette Tip And Mounting Shaft

**action** Received Notice of Recordation of Assignment Document

---

**98R-2-2**                      **date** 2/8/2001                      **status** pending

**title** Pipette With Improved Pipette Tip And Mounting Shaft

**action** Received Filing Receipt Confirmation No. 9855, mailed 1/22/01. Group Art Unit 2856

---

**98R-2-2**                      **date** 3/20/2001                      **status** pending

**title** Pipette With Improved Pipette Tip And Mounting Shaft

**action** Preliminary Amendment filed to correct wording in claim 1.

---

**98R-2-2**                      **date** 12/18/2001                      **status** pending

**title** Pipette With Improved Pipette Tip And Mounting Shaft

**action** Letter from RRM encloses first Office Action, dated 12/6/01, from USPTO. The Examiner has rejected the single claim as indefinite and as anticipated. The language of the rejection seems to indicate that the Examiner did not take into consideration our Preliminary Amendment filed March 28, 2001. Bob has left a telephone message for the Examiner asking that she call him to discuss the Office Action.

---

**98R-2-2****date** 1/9/2002**status** pending**title** Pipette With Improved Pipette Tip And Mounting Shaft

**action** Examiner Ludlow returned Bob's call and told him that our Amendment of March 28, 2001 had not been entered. Bob advised her that we had received a return post card confirming that the Amendment had been received at the Patent Office. Bob faxed a copy of the Amendment to the Examiner on Dec. 19, 2001 and she agreed to contact him after she has reviewed the Office Action, taking the amendment into consideration.

---

**98R-2-2****date** 3/6/2002**status** pending**title** Pipette With Improved Pipette Tip And Mounting Shaft

**action** We have received no further communication from Examiner Ludlow since we faxed the Preliminary Amendment and proof of filing date to her on Dec. 19, 2001. The deadline for response to the Office Action (mailed on Dec. 7, 2001) is March 7, 2002. Bob has been unable to contact the Examiner to discuss how the Preliminary Amendment, might affect our response to the Office Action. He has prepared and filed an amendment in response to the Office Action. Filing was by fax and by US Postal Service and included an amended claim 1, a clean copy (substitute page 32) of the new claim 1 as well as copies of the correspondence faxed on Dec. 19.

---

**98R-2-2****date** 3/27/2002**status** pending**title** Pipette With Improved Pipette Tip And Mounting Shaft

**action** Received post card receipt for Amendment in response to the Office Action filed by mail on 3/6/02.

---

**98R-2-2****date** 1/27/2003**status** pending**title** Pipette With Improved Pipette Tip And Mounting Shaft

**action** Bob Meads received a call from Examiner Ludlow, asking if we wanted to allow this application to go abandoned. Examiner Ludlow said that we had failed to respond to an office action issued on June 19, 2002. Our records indicate that the last correspondence in this case was the Amendment in response to the Office Action of December 7 that we mailed to the USPTO on March 6, 2002. Following Bob's instructions, Janet called Examiner Ludlow to advise her that we had not received the Office Action of June 19, 2002 and that we absolutely do not want to abandon the application. Examiner Ludlow said we will have to let the application go abandoned and then petition to revive the application. She referred Bob to the MPEP 711.03, Section II, "Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office

---

**98R-2-2****date** 2/10/2003**status** pending**title** Pipette With Improved Pipette Tip And Mounting Shaft

**action** We have not yet received a Notice of Abandonment. Janet asked Bob if we should try to find out if the Notice has been sent. Bob advised that we call Examiner Ludlow.

98R-2-2

date 2/11/2003

status pending

title Pipette With Improved Pipette Tip And Mounting Shaft

action Following Bob's instructions, Janet called Examiner Ludlow to advise her that we had not received the Notice of Abandonment. Examiner Ludlow said that she was holding the application to minimize the complication of sending it to the abandoned files and then having to retrieve it upon our petition to revive the application. She said we will not receive the formal Notice of Abandonment, but that we could fax our Petition to Revive the application to her if we had it ready. Janet advised her that we had been awaiting the Notice of Abandonment before preparing our Petition. Janet assured Examiner Ludlow that we would now prepare the Petition to revive the application and send it to her as soon as possible.

Bob said he will work on the Petition next week (week of March 17th.).